

In the Matter of LINK-BELT COMPANY and EWART EMPLOYEES' ASSOCIATION, INC.

LINK-BELT COMPANY and STEEL WORKERS ORGANIZING COMMITTEE;
LOCAL No. 1150, AFFILIATED WITH THE CIO

LINK-BELT COMPANY and STEEL WORKERS ORGANIZING COMMITTEE,
LOCAL No. 2028, AFFILIATED WITH THE CIO

Cases Nos. R-2065, R-2066 and R-2067.—Decided October 17, 1940

Jurisdiction: chain manufacturing industry.

Investigation and Certification of Representatives: existence of question: refusal to accord recognition to union and request that certification be obtained; election necessary.

Unit Appropriate for Collective Bargaining: all production and maintenance employees at all Indianapolis plants of the Company, including the Dodge and Ewart plants, but excluding salaried, clerical, and supervisory employees, and watchmen.

Davis, Pantzer, Baltzell & Sparks, by Mr. Kurt F. Pantzer and Mr. Gustav H. Dongus, of Indianapolis, Ind., for the Company.

Mr. James Robb, Mr. Orvill J. Kincaid, Mr. O. C. Taylor, Mr. Alfred E. Speck, Mr. James Mason, and Mr. Harry E. Hofer, of Indianapolis, Ind., for Local No. 1150 and Local No. 2028.

Mr. E. M. Fife, Jr., Mr. C. W. Baldwin, and Mr. Bert Lannan of Indianapolis, Ind., for the Association.

Mr. Gilbert V. Rosenberg, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

On July 19, 1940, Ewart Employees' Association, Inc., herein called the Association, and on August 12, 1940, Steel Workers Organizing Committee, Local No. 2028, affiliated with the C. I. O., herein called Local No. 2028, filed with the Regional Director for the Eleventh Region (Indianapolis, Indiana) separate petitions alleging, respectively, that a question affecting commerce had arisen concerning the representation of employees of Link-Belt Company, Indianapolis, In-

diana, herein called the Company, at its Ewart plant, and requesting an investigation and certification of representatives pursuant to Section 9 (c) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. On August 9, 1940, Steel Workers Organizing Committee, Local No. 1150, affiliated with the C. I. O., herein called Local No. 1150, filed a similar petition concerning the employees of the Company at its Dodge plant.

On August 24, 1940, the National Labor Relations Board, herein called the Board, acting pursuant to Section 9 (c) of the Act and Article III, Sections 3 and 10 (c) (2), of National Labor Relations Board Rules and Regulations—Series 2, as amended, ordered an investigation in each case and authorized the Regional Director to conduct it and to provide for an appropriate hearing upon due notice, and further ordered that the cases be consolidated.

On September 13, 1940, the Regional Director issued a notice of consolidated hearing, copies of which were duly served upon all the parties. Pursuant to notice, a hearing was held at Indianapolis, Indiana, on September 25, 1940, before Arthur R. Donovan, the Trial Examiner duly designated by the Board. The Company, the Association, Local No. 2028, and Local No. 1150 were represented by counsel or by representatives; all participated in the hearing. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing upon the issues was afforded all parties. The Trial Examiner ruled upon one motion during the course of the hearing. The Board has reviewed this ruling of the Trial Examiner and finds no prejudicial error was committed. The ruling is hereby affirmed.

Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Link-Belt Company is an Illinois corporation, having its principal office and place of business in Chicago, Illinois. In addition to operating engineering plants at Chicago, Illinois, Philadelphia, Pennsylvania, San Francisco, California, Atlanta, Georgia, and Toronto, Canada, the Company owns and operates two chain factories and malleable foundries in Indianapolis, Indiana. The two chain factories and malleable foundries in Indianapolis are designated respectively as the Dodge plant and the Ewart plant and are engaged in the production and sale of chains for power transmission, elevating and conveying purposes. Only the Dodge and Ewarts plants of the Company are involved in this proceeding.

During 1938 the estimated cost of raw materials used in manufacturing operations at the Dodge and Ewart plants was between \$2,000,000 and \$3,000,000. Between 80 and 90 per cent of the raw materials so used had their origin outside Indiana. Also during 1938 the value of manufactured goods sold by the Company from the Dodge and Ewart plants was approximately \$7,000,000, divided about evenly between the two plants. Approximately 90 per cent of such manufactured goods were shipped to destinations outside Indiana.¹

II. THE ORGANIZATIONS INVOLVED

Ewart Employees' Association is an unaffiliated labor organization admitting to membership employees of the Company.

Local No. 1150 and Local No. 2028 are labor organizations affiliated with Steel Workers Organizing Committee, and, through it, with the Congress of Industrial Organizations. Both locals admit to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

It was stipulated between the parties that the Company will not recognize any union as the sole and exclusive agency for the purposes of wages, hours, and working conditions within any unit until the National Labor Relations Board certifies the union as the proper bargaining agency.

There was introduced in evidence a report prepared by the Regional Director showing that the labor organizations herein involved represent a substantial number of the employees in the unit hereinafter found to be appropriate.²

¹ A stipulation between counsel for the Board and for the Company stated:

That all parties agreed that the findings of fact in re "The business of the respondent" as found by the Board in the Link-Belt Company, Dodge Plant, Case No. XI-R-311, and Link-Belt Company, Ewart Plant, Case No. XI-R-302, correctly state the facts regarding the corporation's business at that time; that further no substantial change has occurred since that time.

The case numbers mentioned in this stipulation are the regional numbers assigned to two of the cases involved in this proceeding in which no findings of fact have heretofore been made. However, it is apparent from the stipulation that the parties intended to stipulate the facts concerning the Company's business as set forth in a certain decision previously issued by the Board involving this Company. Thus, pursuant to this stipulation, the above facts are taken from the findings found in Section I "The business of the respondent," of the Decision and Order issued by the Board in the *Matter of Link-Belt Company (Dodge Plant)* and *Amalgamated Association, Iron, Steel & Tin Workers Local No. 1150, affiliated with the C. I. O.* (Case No. C-1510); *Matter of Link-Belt Company (Ewart Plant)* and *Amalgamated Association, Iron, Steel & Tin Workers Local No. 2028, affiliated with the C. I. O.* (Case No. C-1511), 26 N. L. R. B. 227. At the hearing the Company admitted that it was engaging in commerce within the meaning of Section 2 (6) and (7) of the Act.

² The Regional Director's report showed that the Association produced 671 authorization cards signed by persons whose names appear on the pay roll for the Ewart and Dodge plants containing 2008 names, and that Local No. 1150 and Local No. 2028 together filed membership petitions signed by 951 persons whose names appear on said pay roll.

We find that a question has arisen concerning representation of employees of the Company.

IV. THE EFFECT OF THE QUESTION CONCERNING REPRESENTATION UPON COMMERCE

We find that the question concerning representation which has arisen, occurring in connection with the operations of the Company described in Section I above, has a close, intimate, and substantial relation to trade, traffic, and commerce among the several States and tends to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

V. THE APPROPRIATE UNIT

The Company, the Association, Local No. 1150, and Local No. 2028 stipulated, and we find, that the production and maintenance employees at all the Indianapolis plants of the Company, including the Dodge and Ewart plants, but excluding salaried, clerical, and supervisory employees and watchmen, constitute a unit appropriate for the purposes of collective bargaining and that said unit will insure to employees of the Company the full benefit of their right to self-organization and to collective bargaining and otherwise effectuate the policies of the Act.

VI. THE DETERMINATION OF REPRESENTATIVES

We find that the question which has arisen concerning the representation of employees of the Company can best be resolved by an election by secret ballot.

The parties stipulated that the Company's pay roll for the week ending September 21, 1940, should be used to determine eligibility to vote in an election and that the ballots should provide for a choice of representation by the Association, by Steel Workers Organizing Committee (C. I. O.), hereinafter called the S. W. O. C., or by neither. No reason appears why the stipulation should be denied effect.

We shall accordingly direct that an election by secret ballot be held among the Company's employees in the appropriate unit whose names appear on the Company's pay roll for the week ending September 21, 1940, with the inclusions and exclusions set forth in the Direction, to determine whether they desire to be represented by the Association, by the S. W. O. C., or by neither, for the purposes of collective bargaining.

Upon the basis of the above findings of fact and upon the entire record in the case, the Board makes the following:

CONCLUSIONS OF LAW

1. A question affecting commerce has arisen concerning the representation of employees of Link-Belt Company, Indianapolis, Indiana, at all its Indianapolis plants, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the National Labor Relations Act.

2. All production and maintenance employees at all Indianapolis plants of the Company, including the Dodge and Ewart plants, but excluding salaried, clerical, and supervisory employees, and watchmen, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the National Labor Relations Act.

DIRECTION OF ELECTION

By virtue of and pursuant to the power vested in the National Labor Relations Board by Section 9 (c) of the National Labor Relations Act; and pursuant to Article III, Section 8, of National Labor Relations Board Rules and Regulations—Series 2, as amended, it is hereby

DIRECTED that, as part of the investigation authorized by the Board to ascertain representatives for the purposes of collective bargaining with Link-Belt Company, Indianapolis, Indiana, an election by secret ballot shall be conducted as early as possible but not later than thirty (30) days from the date of this Direction, under the direction and supervision of the Regional Director for the Eleventh Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Section 9, of said Rules and Regulations, among all the production and maintenance employees at all Indianapolis plants of the Company, including the Dodge and Ewart plants, whose names appear on the Company's pay roll for the week ending September 21, 1940, including employees who did not work during such pay-roll period because they were ill or on vacation, and employees who were then or have since been temporarily laid off, but excluding salaried, clerical, and supervisory employees, watchmen, and employees who have since quit or been discharged for cause, to determine whether they desire to be represented by Ewart Employees' Association, Inc., or by Steel Workers Organizing Committee (C. I. O.), for the purposes of collective bargaining, or by neither.